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Central Bank of Ireland

Eurosystem

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Mr Pearse Doherty TD
Dáil Éireann
Kildare Street
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27 April 2020

Dear Deputy Doherty,

Thank you for your email dated 14 April 2020 in relation to the difficulties faced by many businesses during the COVID-19 public health emergency.

The spread of the COVID-19 virus is a global public health emergency, which has created significant uncertainty and economic disruption. The Central Bank of Ireland (the “Central Bank”) recognises that this is a challenging and troubling time for consumers and businesses and is focused on ensuring that the insurance sector continues to operate in a way that sustainably and effectively serves its policyholders and the wider economy through and beyond this period.

Insurance firms must have processes in place to engage positively with customers who are experiencing difficulties in the payment of premiums because of COVID-19. We expect firms to take account of the difficult and challenging situation in which many customers find themselves. As a matter of urgency, firms must develop consumer-centric solutions to the handling of insurance payment breaks and policy rebates in light of the COVID-19 emergency.

The Central Bank has communicated its expectations to the insurance sector¹, specifically that:

- The recent Government advice to close a business, as part of its strategy for dealing with COVID-19, should be treated as a specific direction to the business when assessing the validity of a claim under a policy providing business interruption cover;

¹ <https://www.centralbank.ie/news/article/press-release-dear-ceo-letter-inurance-covid19-27-march2020>



- Firms honour valid claims in full and pay them promptly, having assessed all claims appropriately, in line with the policy terms and conditions, and following all legal and regulatory requirements, including the Consumer Protection Code and the European Communities (Unfair Terms in Consumer Contracts) Regulations, 1995;
- Where there is a doubt about the meaning of a term within policy wording, the interpretation most favourable to the customer should be adopted;
- Firms should proactively communicate in a clear, transparent manner to customers about the levels of cover provided by individual insurance policies; and
- Firms' board and senior management must ensure that where there is insurance cover in place, that claims are accepted and paid promptly and that the CEO of each firm shall take responsibility for the oversight of how their firm is managing determinations of whether claims are covered or not in the context of COVID-19.

As you are no doubt aware the Central Bank does not have a mandate for investigating individual policyholder complaints or making determinations on the interpretation of policy wordings; these powers belong to the Financial Services and Pensions Ombudsman (where appropriate) and ultimately the courts. Nonetheless, as part of a wider programme of supervision which commenced in March, the Central Bank is engaging with the larger insurance firms to ascertain their approach to dealing with specific elements of COVID-19, including the handling of claims under a policy providing business interruption cover.

From initial information supplied by insurers it is clear that many business interruption policies have basic cover for closure due to physical damage and would not have an obligation to pay out in relation to the COVID-19 pandemic, a finding that is similar to that in the United Kingdom² where many of the Irish insurers have affiliated operations.

Although the Central Bank expects that most policy wordings are clear in terms of what cover is provided and what cover exclusions are in place, where there is a doubt about the meaning of a term, the interpretation most favourable to the customer should prevail. Firms must ensure that claims are appropriately assessed and where there is insurance cover in place that claims are accepted and paid promptly.

² <https://www.fca.org.uk/publication/correspondence/dear-ceo-insuring-sme-business-interruption-coronavirus.pdf>



As noted above, the Central Bank wants an insurance sector that operates in a way that sustainably and effectively services all its policyholders and the wider economy. In this respect, the Central Bank notes the European Insurance and Occupational Pensions Authority statement on consumer protection and conduct risks³ that states, as a general principle, imposing retroactive coverage of claims not envisaged within contracts could create material solvency risks and ultimately threaten policyholder protection and market stability, aggravating the financial and economic impacts of the current health crisis.

The Central Bank will continue to closely monitor the situation to ensure that firms are meeting the expectations as previously set out. In this regard, I note that you make reference to correspondence from a particular insurer to some of its customers. It would be useful if you could share these details with the Central Bank.

Finally, as you know, the Central Bank has launched a dedicated COVID-19 online information hub. We continue to update the hub with new information to consumers, businesses and firms. We hope that you, and your constituents, will find it useful.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Alan Dwyer".

³ <https://www.eiopa.europa.eu/content/eiopa-urges-insurers-and-intermediaries-continue-take-actions-mitigate-impact>